

MEMORANDUM

Texas Department of Human Services

TO: Long Term Care-Regulatory
Regional Directors and State Office Managers

FROM: Jeanoyce Wilson, Unit Manager
Long Term Care-Regulatory Policy Unit
State Office MC E-370

SUBJECT: Regional Survey and Certification (RS&C) Letter No. 03-08

DATE: September 12, 2003

The attached Centers for Medicare and Medicaid Services (CMS), Regional Survey and Certification (RS&C) Letter is being provided to you for information purposes and should be shared with all professional staff.

- RS&C Letter No. 03-08 – Modification of Complaint Procedures for Accredited Hospitals

If you have any questions about this subject, please contact the Texas Department of Health, Health Facility Licensing and Compliance Division at (512) 834-6648.

[signature on file]

Jeanoyce Wilson

JW:bbm

Attachment

c: Evelyn Delgado, E-340
Paul Leche, W-615
Lawrence Parker, W-404
Regional Administrators



DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Division of Survey and Certification, Region VI

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August 13, 2003

Regional Survey and Certification Letter No. 03-08 (This rescinds RS&C Letter No. 92-71)

To: All State Survey Agencies Directors

Subject: Modification of Complaint Procedures for Accredited Hospitals

We are writing to amend our standard procedures for handling complaints. In order to make our complaint process more responsive to the complainant, it has become necessary for us to modify portions of the CMS Regional Office (RO) and State Agency (SA) procedures for processing complaints. These modifications affect the process of accredited hospital complaint investigation authorization and the handling of complaint correspondence. These procedures **do not** apply to EMTALA complaints/investigations.

Initially, the SA will evaluate each complaint to determine if it is retained by the SA for investigation or forwarded to the RO or other appropriate authority as stated in SOM-3281(D)(1). Complaints that do not warrant an investigation should be referred to the accreditation organization for its review. Effective **September 1, 2003**, the SA must request authorization to investigate all complaints regarding JCAHO/AOA accredited hospitals in accordance with SOM 3260 and SOM 3262, utilizing the ASPEN Complaint/Incident Tracking System (ACTS). **The SA will request authorization by completing form CMS-2802 in ACTS and is not to conduct the complaint survey unless authorized by the RO.** This rescinds the blanket authorization issued on August 22, 2000. Please note that in order for the appropriate RO representative to approve a complaint investigation, the SA needs to:

1. Specify an *RO Responsible Party* in ACTS
2. Check the Request for RO Approval Box.

Additionally, the SA has the responsibility to acknowledge receipt of the complaint and to advise the complainant that an appropriate investigation will be initiated if one is warranted (SOM 3260). The SA, acting on CMS's authority, will write a response letter to the complainant in reference to the results of the survey within 3 weeks of the completion of the investigation. This applies to both accredited/deemed and non-accredited/non-deemed providers. This is standard procedure for inquiries received from all complainant types including private citizens, Congressmen, government agencies, etc.



Correspondence instructions for complaint investigations that result in no-violation of the Medicare Conditions of Participation

When the SA finds that a complaint is substantiated or unsubstantiated with no deficiencies, they will request final sign off from the RO through ACTS. As stated in SOM 3281(H)(1), if the complaint investigation finds no deficiencies, the complaint is not “forwarded” to the RO, but it is recorded in the ACTS complaint system as “closed” (Complete yellow fields in the *Finalization* section of the *Actions/Close* tab). This will inform the RO that sign-off is required. When there are no deficiencies, the SA is responsible for responding to the facility’s administrator concerning the results of the survey.

In contrast, for complaints that are substantiated or unsubstantiated with standard level deficiencies, the SA will request final sign off from the RO only after the SA has received the plan of correction (POC). After receipt of the POC, the SA as stated in SOM 3281(H)(2) will “forward” the complaint investigation to the RO using ACTS (Check the box *Forwarded to RO/MSA* in the *Investigation* tab). This will inform the RO that sign-off is required. The RO is responsible for corresponding with the facility in reference to the results of the investigation and plans of correction.

Correspondence instructions when COPs are out of compliance

If a provider is in non-compliance with the Medicare Conditions of Participation (COP), the SA retains the responsibility for responding to the complainant. However, if the SA recommends a 90-day termination, the RO is responsible for writing the initial letter to the facility removing deemed accreditation status. The SA has jurisdiction of the case and maintains correspondence with the provider, until it is back in compliance with the Medicare COP or until a final termination action needs to be taken against the provider. For further guidance see SOM 3012.

If the SA recommends a 23-day termination (Immediate Jeopardy), the SA maintains responsibility for responding to the complainant. However, the RO is responsible for all correspondence with the provider throughout the termination process. The RO processes the complaint under expedited termination procedures at SOM 3010. State Survey Agencies and the RO will use ACTS to generate all complaint correspondence associated with accredited hospitals. This will eliminate carbon copies between the SA and RO.

We appreciate your cooperation in making this process more efficient, especially in the light of fully implementing ACTS. If you have any questions please contact Sergio Mora at (214) 767-4432.

Sincerely,

Theresa Bennett, Acting Branch Chief
Survey and Certification Operations Branch,
Division of Survey and Certification

Cc: Central Office

